

Message Text

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ACTION EA-14

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R 060324Z APR 74

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 2565

C O N F I D E N T I A L SECTION 1 OF 2 MANILA 4105

E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: REVIEW OF STATUS ON NON-AGREED ARTICLES FROM 1971-1972

MBA NEGOTIATIONS: ARTICLE XI (IMMIGRATION) - RETABLING

U.S. PROPOSAL RECOMMENDED

REFS: A) MANILA 3865, MAR 19, 1973

B) STATE 206437, NOV 12, 1971

C) MANILA 454, JAN 15, 1972

D) MANILA 629, JAN 20, 1972

E) STATE 24867, FEB 11, 1972

SUMMARY: THE GOP MAY HAVE FEWER POLITICAL PROBLEMS NOW WITH US ARTICLE XI PROPOSAL THAN IT HAD IN 1971-72 MBA NEGOTIATION. EMBASSY PROPOSES TO TABLE US PROPOSAL AGAIN IN FORTHCOMING MBA TALKS. IN VENT GOP AGAIN REJECTS US PROPOSAL, EMBASSY RECOMMENDS FURTHER CHANGES BE MADE IN GOP ARTICLE XI COUNTER-PROPOSAL THAT WOULD MEET US NEEDS. TEXT OF US PROPOSAL TRANSMITTED HERewith. END SUMMARY.

1. IN REF A EMB REVIEWED HISTORY OF NEGOTIATION OF ARTICLE XI. TO RECAPITULATE, US PROPOSAL (REF B) WAS POLITICALLY DIFFICULT FOR GOP TO ACCEPT IN FALL OF 1971 BECAUSE IT ELIMINATED VISA REQUIREMENT ALTOGETHER IN TEXT OF ARTICLE. US PROPOSAL ALSO INCLUDED DRAFT NOTE THAT WOULD HAVE MADE IMPLEMENTATION AND DOCUMENTATION A MATTER OF BI-CONFIDENTIAL

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LATERAL AGREEMENT, INSTEAD OF UNILATERAL GRANT OF AUTHORITY

BY GOP AS HAS BEEN PRACTICE SINCE 1947.

2. PHIL PANEL REJECTED US PROPOSAL AND MADE COUNTER-PROPOSAL (REF C) IN WHICH VISA REQUIREMENT FOR NON-MILITARY PERSONNEL IN ARTICLE WAS RETAINED; HOWEVER, PHIL IMPLEMENTING NOTE EXEMPTED DEPENDENTS US MILITARY AND CIVILIAN COMPONENT FROM VISA REQUIREMENT FOR ENTRY THROUGH BASES. US MILITARY AND CIVILIAN PERSONNEL AND DEPENDENTS TRAVELING ON LEAVE ORDERS WERE ALSO PERMITTED ENTRY THROUGH BASES. MILITARY LEAVE PERSONNEL WERE NOT REQUIRED TO HAVE PASSPORTS OR VISAS. CIVILIAN PERSONNEL AND DEPENDENTS AND MILITARY DEPENDENTS WOULD HAVE HAD TO HAVE PASSPORTS AND VISAS OR ENTRY PERMITS IF THEIR STAY IN PHILIPPINES WAS TO BE LONGER THAN 72 HOURS. PHIL PROPOSAL ALSO ALLOWED ENTRY THROUGH BASES FOR PERSONS COMING HERE FOR MEDICAL TREATMENT ALONG WITH ACCOMPANYING ATTENDANTS. MEDICAL PATIENTS WOULD HAVE BEEN ABLE TO AVAIL THEMSELVES ALSO OF ENTRY PERMIT PROVISION. BASIC CONCEPT OF PHIL PROPOSAL WAS STATIONING OF GOP IMMIGRATION OFFICIALS AT BASES TO OVERSEE IMMIGRATION PROCEDURES AND TO PROVIDE ENTRY PERMIT DOCUMENTATION AS NEEDED. COSMETICALLY, HOWEVER, DESPITE CONCESSIONS, PHIL PROPOSAL WOULD HAVE APPEARED TO HAVE BEEN MERELY CONTINUATION EXISTING PRACTICE.

3. EMBASSY NOTED IN REF A THAT IN NEXT STAGE OF NEGOTIATION, UNDER MARTIAL LAW CONDITIONS, PHILS MIGHT BE LESS NERVOUS ABOUT MAKING TYPES OF CHANGES IN HISTORIC IMPLEMENTATION OF IMMIGRATION THAT US PROPOSAL WOULD ENTAIL. ACCORDINGLY, WE RECOMMEND PROPOSAL BE TABLED AGAIN. IN POSSIBLE EVENT GOP WILL CONTINUE TO REJECT US PROPOSAL, EMBASSY HAS INITIATED STUDY OF PHIL PROPOSAL TO SEE IF DEPT'S SPECIFIC OBJECTIONS TO IT RAISED IN REF E CAN BE MET BY DRAFTING CHANGES.

4. US PROPOSAL FOR TEXT ARTICLE XI FOLLOWS:

QUOTE: 1. IT IS AGREED THAT THE UNITED STATES MAY BRING INTO THE PHILIPPINES MEMBERS OF THE UNITED STATES ARMED FORCES AND UNITED STATES NATIONALS EMPLOYED BY OR UNDER CONTRACT WITH THE UNITED STATES TOGETHER WITH THEIR DEPENDENTS, TECHNICAL PERSONNEL OF OTHER NATIONALITIES (NOT CONFIDENTIAL

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BEING PERSONS EXCLUDED BY THE LAWS OF THE PHILIPPINES) IN CONNECTION WITH THE CONSTRUCTION, MAINTENANCE OR OPERATION OF THE BASES, AND SUCH OTHER PERSONS AS MAY BE AGREED UPON BY THE TWO GOVTS. FOR THE PRUPOSES OF ENTRY AND EXIT OF THE PHILIPPINES, MEMBERS OF THE UNITED STATES ARMED FORCES SHALL HAVE IN THEIR POSSESSION THEIR MILITARY IDENTIFICATION CARDS AND TRAVEL ORDERS, WHEREAS CIVILIANS EMPLOYED BY OR UNDER CONTRACT WITH THE U.S. ARMED FORCES SHALL HAKLE IN

THEIR POSSESSION VALID PASSPORTS AND OFFICIALS ORDERS OR OTHER VERIFICATION OF THEIR STATUS ISSUED BY THE APPROPRIATE U.S. MILITARY AUTHORITIES. PERSONS ENTERING THE PHILIPPINES IN ACCORDANCE WITH THIS ARTICLE SHALL NOT BE REQUIRED TO REGISTER AS RESIDENT ALIENS, NOR SHALL SUCH PERSONS BE CONSIDERED AS ESTABLISHING DOMICILE OR RESIDENCE IN THE PHILIPPINES.

2. IF THE STATUS OF ANY PERSON WITHIN THE PHILIPPINES AND ADMITTED THERETO UNDER THE FOREGOING PARAGRAPH SHALL BE ALTERED SO THAT HE WOULD NO LONGER BE ENTITLED TO SUCH ADMISSION, THE UNITED STATES SHALL NOTIFY THE PHILIPPINES AND SHALL, IF SUCH PERSON BE REQUIRED TO LEAVE THE PHILIPPINES BY THE LATTER GOVERNMENT, BE RESPONSIBLE FOR PROVIDING HIM WITH A PASSAGE FROM THE PHILIPPINES WITHIN A REASONABLE TIME, AND SHALL IN THE MEANTIME PREVENT HIS BECOMING A PUBLIC RESPONSIBILITY OF THE PHILIPPINES.

3. IF THE PHILIPPINE GOVERNMENT HAS REQUESTED THE REMOVAL FROM THE PHILIPPINES OF A MEMBER OF THE UNITED STATES ARMED FORCES OR THE CIVILIAN COMPONENT, OR A DEPENDENT, ADMITTED IN ACCORDANCE WITH THIS AGREEMENT, THE UNITED STATES AUTHORITIES SHALL MAKE AVAILABLE TRANSPORTATION FROM THE PHILIPPINES FOR THE PERSON CONCERNED AND, WHERE APPLICABLE, FOR HIS DEPENDENTS WITHOUT COST TO THE PHILIPPINE GOVERNMENT.
END QUOTE.

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INFO OCT-01 ISO-00 PM-07 L-03 CIAE-00 INR-10 NSAE-00

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 2566

C O N F I D E N T I A L SECTION 2 OF 2 MANILA 4105

5. US PROPOSAL FOR TEXT IMPLEMENTING NOTE FOLLOWS:

QUOTE: THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE DEPARTMENT OF FOREIGN AFFAIRS OF THE REPUBLIC OF THE PHILIPPINES AND HAS THE HONOR TO REFER TO ARTICLE XI OF THE MILITARY BASES AGREEMENT, AS AMENDED, AND TO RECENT DISCUSSIONS CONCERNING THE STATIONING OF PHILIPPINE IMMIGRATION OFFICIALS ON UNITED STATES MILITARY BASES AND THE ENTRY AND EXIT OF CERTAIN PERSONS THROUGH SUCH BASES AND THE DOCUMENTS REQUIRED FOR SUCH ENTRY AND EXIT.

1. IN ACCORDANCE WITH THESE DISCUSSIONS, IT IS AGREED THAT IN ADDITION TO THE PERSONS SPECIFIED IN ARTICLE XI OF THE MBA, AS AMENDED, THE FOLLOWING PERSONS MAY ENTER AND EXIST THE PHILIPPINES THROUGH THE UNITED STATES MILITARY BASES:

(A) MEMBERS OF THE UNITED STATES ARMED FORCES TRAVELING THROUGH THE PHILIPPINES IN DIRECT TRANSIT TO ANOTHER PORT OF DESTINATION;

(B) MEMBERS OF THE UNITED STATES ARMED FORCES TRAVELING TO OR FROM THE PHILIPPINES ON LEAVE;

(C) CIVILIANS EMPLOYED BY OR UNDER A CONTRACT WITH THE UNITED STATES ARMED FORCES TRAVELING THROUGH THE PHILIPPINES IN DIRECT TRANSIT TO ANOTHER PORT OF DESTINATION;
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D(D) CIVILIANS EMPLOYED BY OR UNDER A CONTRACT WITH THE UNITED STATES ARMED FORCES TRAVELING TO OR FROM THE PHILIPPINES ON LEAVE;

(E) DEPENDENTS OF MEMBERS OF THE UNITED STATES ARMED FORCES AND DEPENDENTS OF CIVILIANS EMPLOYED BY OR UNDER A CONTRACT WITH THE UNITED STATES ARMED FORCES, WHEN SUCH DEPENDENTS ARE TRAVELING THROUGH THE PHILIPPINES IN DIRECT TRANSIT TO ANOTHER PORT OF DESTINATION OR TRAVELING TO OR FROM THE PHILIPPINES ON LEAVE;

(F) CREW MEMBERS OF MILITARY AIRCRAFT OR VESSELS OF ALLIED THIRD COUNTRIES WHOSE VESSELS OR AIRCRAFT HAVE BEEN CLEARED BY THE PHILIPPINES FOR ENTRY INTO THE UNITED STATES BASES, AND COMING AS SUCH CREW MEMBERS;

(G) MEMBERS OF THE ARMED FORCES OF THIRD COUNTRIES WHERE PRIOR APPROVAL OF THEIR ENTRY THROUGH UNITED STATES MILITARY BASES HAS BEEN SECURED FROM THE PHILIPPINES;

(H) PERSONS ARRIVING AT THE UNITED STATES MILITARY

BASES FOR THE PURPOSE OF TREATMENT OR CONSULTATION AT
UNITED STATES MEDICAL FACILITIES IN THE PHILIPPINES, AND
ATTENDANTS ACCOMPANYING THE PATIENTS;

(I) UNITED STATES GOVERNMENT OFFICIALS COMING TO
THE PHILIPPINES ON OFFICIAL BUSINESS OF A TEMPORARY NATURE;

(J) RETIRED MEMBERS OF THE UNITED STATES ARMED FORCES, AND
THEIR DEPENDENTS, UTILIZING FREE UNITED STATES GOVERNMENT
TRANSPORTATION PROVIDED FOR THE SERVICEMENT.

2. FOR THE PURPOSE OF ENTRY AND EXIT THROUGH THE
UNITED STATES MILITARY BASES, IT IS AGREED THAT THE FOLLOW-
ING PROCEDURES WILL BE FOLLOWED.

(A) MEMBERS OF THE UNITED STATES ARMED FORCES SHALL
POSSESS UNITED STATES MILITARY IDENTIFICATION CARDS AND
TRAVEL OR LEAVE ORDERS ISSUED BY APPROPRIATE MILITARY AUTH-
ORITIES;

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(B) CIVILIANS EMPLOYED BY OR UNDER A CONTRACT WITH
THE UNITED STATES ARMED FORCES, THEIR DEPENDENTS, AND DE-
PENDENTS OF UNITED STATES ARMED FORCES PERSONNEL SHALL
POSSESS PASSPORTS AND TRAVEL OR LEAVE ORDERS ISSUED BY THE
APPROPRIATE UNITED STATES MILITARY AUTHORITIES;

(C) PERSONS DESCRIBED IN SUBPARAGRAPHS F, G, AND I OF
PARAGRAPH 1 OF THIS NOTE WHO REMAIN IN THE PHILIPPINES NO
LONGER THAN 72 HOURS SHALL POSSESS TRAVEL ORDERS AND, AS
APPROPRIATE, MILITARY IDENTIFICATION CARDS OR PASSPORTS;

(D) COMPLIANCE WITH NORMAL PHILIPPINE VISA REGULATIONS
SHALL BE REQUIRED FOR PERSON OTHER THAN THOSE DESCRIBED IN
SUBPARAGRAPHS A, B, AND C OF THIS PARAGRAPH;

(E) ALL PERSONS OTHER THAN CREW MEMBERS OF AIRCRAFT
OR VESSELS ON OPERATIONAL MISSIONS SHALL BE REQUIRED TO PRE-
SENT TO THE PHILIPPINE IMMIGRATION OFFICIAL ON THE BASE FOR
EXAMINATION THE DOCUMENTATION REQUIRED BY THE APPROPRIATE
SUBPARAGRAPHS A, B, C, OR D OF THIS PARAGRAPH.

THE EMBASSY WISHES TO PROPOSE THAT THIS NOTE AND THE
DEPARTMENT'S ANSWER THERETO WOULD CONSTITUTE AN AGREEMENT
BETWEEN THE TWO GOVERNMENTS AND WOULD SUPERSEDE THE PROCEDURES
OUTLINED IN THE DEPARTMENT'S UNNUMBERED NOTES OF AUGUST 24,
1961 AND NOVEMBER 15, 1968. END QUOTE.
SULLIVAN

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